

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MONY PREAP, EDUARDO VEGA
PADILLA, and JUAN LOZANO
MAGDALENO,

Plaintiffs-Petitioners,

v.

JEH JOHNSON, Secretary, United States
Department of Homeland Security; ERIC H.
HOLDER, JR., United States Attorney
General; TIMOTHY S. AITKEN, Field
Office Director, San Francisco Field Office,
United States Bureau of Immigration and
Customs Enforcement; GREGORY J.
ARCHAMBEAULT, Field Office Director,
San Diego Field Office, United States
Bureau of Immigration and Customs
Enforcement; DAVID MARIN, Field Office
Director, Los Angeles Field Office, United
States Bureau of Immigration and Customs
Enforcement,

Defendants-Respondents.

Case No. 4:13-cv-05754-YGR

**[PROPOSED] ORDER AND
PRELIMINARY INJUNCTION**

On May 15, 2014, the Court granted Plaintiffs-Petitioners' Motion for Preliminary Injunction and Motion for Class Certification and denied Defendants' Motion to Dismiss. (Dkt. 48) ("Order"). Following issuance of the Order, Defendants moved for clarification of the injunction and for a stay pending resolution of their motion for clarification. (Dkt. 51). On June 24, 2014, the Court granted Defendants' request for a stay pending resolution of their motion for clarification. (Dkt. 57).

On July 11, 2014, the Court held a hearing regarding Defendants' Motion for Clarification and, for reasons stated on the record, denied it. (Dkt. 59). Regarding implementation of the preliminary injunction, the Court further ordered as follows:

1. Defendants shall cease and desist subjecting class members¹ to mandatory detention under 8 U.S.C. § 1226(c). Detention authority over class members arises under 8 U.S.C. § 1226(a).
2. By July 31, 2014, Defendants shall submit to the Court the names, A numbers, and detention-facility location of class members.
3. By September 24, 2014, which is 75 days following the Court's hearing of July 11, 2014, DHS shall complete the process of (a) reevaluating custody determinations for class members and (b) providing a copy of the Form I-286 with the results of the re-evaluation as well as the Notice of Class Action Certification and Redetermination of Custody ("Redetermination Notice") to class members.² The Form I-286 will be read to the class member in his or her native language. The Redetermination Notice will be provided in English or Spanish, depending on the class member's native language. If the class member does not read English or Spanish, the Redetermination Notice will be read to the class member in his or her native language. The English version of the Redetermination Notice is attached to this Order as Exhibit A.
4. For class members who elect to have a bond hearing or who do not affirmatively elect or decline a bond hearing, the Executive Office of Immigration Review (EOIR) shall schedule bond hearings for class members no later than 14 days after receipt of the class member's I-286 Form, which DHS will transmit to EOIR on a rolling basis in the regular

¹ The certified class is defined as follows:

Individuals in the state of California who are or will be subjected to mandatory detention under 8 U.S.C. [§] 1226(c) and who were not or will not have been taken into custody by the Government immediately upon their release from criminal custody for a Section 1226(c)(1) offense.

See Order at 25.

² For future class members who are transferred to California detention facilities by Defendants from outside of the state of California, DHS shall conduct custody redeterminations and provide Redetermination Notices within 14 days after the class member's transfer to a California detention facility.

1 course after completing custody re-evaluations.

2 5. Defendants shall submit monthly compliance reports to the Court, including the following
3 information: the name of the class member, the class member's A number, the facility in
4 which the class member is held, and the date of last conviction for a Section
5 1226(c)(1)(A)-(D) offense (if applicable), and the date the custody redetermination was
6 conducted and Redetermination Notice was provided to the class member. These monthly
7 compliance reports will be filed with the Court as follows:


- 8 • August 11, 2014 for the period ending July 31, 2014;
9 • September 10, 2014 for the period ending August 31, 2014;
10 • October 10, 2014 for the period ending September 30, 2014; and
11 • November 10, 2014 for the period ending October 31, 2014 (if necessary under
12 paragraph 7).

13 6. With the report due October 10, 2014, Defendants will submit to the Court and class
14 counsel a report on: (i) the process by which class members were identified; (ii) the dates
15 on which bond hearings for class members were scheduled and held (except where class
16 members request continuances); and (iii) a list of any class members that Defendants
17 released on the class member's own recognizance or on bond, and/or who did not seek a
18 custody redetermination.

19 7. If, for any reason, Defendants are not in full compliance with the Order by September 24,
20 2014, Defendants will submit an end of month report to the Court and class counsel by the
21 10th of the next month for each month that Defendants are not in full compliance, with
22 updated information as described in paragraphs 5 and 6, *supra*.

23 IT IS SO ORDERED.

24 Date: July 21, 2014

25 
26 YVONNE GONZALEZ ROGERS
27 United States District Judge
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